

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE

PEDRO MEDERO VIDAL

MARIA VIRGEN GUTIERREZ JIMENEZ

Debtor(s)

CASE NUMBER 13-03839-ESL

CHAPTER 13

**TRUSTEE'S OBJECTION TO CLAIM NUMBER 09  
FILED BY BANCO POPULAR DE PUERTO RICO  
NOTICE AND CERTIFICATE OF SERVICE**

TO THE HONORABLE COURT:

COMES NOW, Alejandro Oliveras-Rivera, Standing Chapter 13 Trustee, and very respectfully ALLEGES, STATES and PRAYS:

1. On 08/23/2013 claim number 09 was filed by BANCO POPULAR DE PUERTO RICO in the amount of \$288,336.40. The Trustee objects to this claim under the following grounds:

- FBRP 3001(d) requires that the proof of claim filed as secured shall be accompanied by evidence of the security interest. Furthermore, under Puerto Rico Mortgage Law, recording in the Property Registry is essential to the validity of a mortgage. 30 L.P.R.A. 2607. In the instant case, claimant has failed to provide evidence of perfection of security.

2. Debtor is not a member of the U.S. Armed Forces, the Coast Guard, the Public Health Service or the National Oceanic and Atmospheric Administration, as evidence by the Certificate issued by the U.S. Department of Defense, copy of which is attached only to the original of this motion and movant's copy.

WHEREFORE, it is respectfully requested from this Honorable Court: THAT THE CLAIM BE ALLOWED AS GENERAL UNSECURED IF NO EVIDENCE OF PERFECTION OF SECURITY IS PRESENTED. THE TRUSTEE FURTHER SUBMITS THAT IN THE EVENTUALITY THAT THE ABOVE MENTIONED CLAIMANT PROVIDES THIS EVIDENCE AND IF THE CLAIM IS ALLOWED, THE TRUSTEE WILL NOT MAKE DISBURSEMENTS TO THIS CLAIM IN VIEW OF THE PROVISION IN THE PROPOSED PLAN FOR THE SURRENDER OF COLLATERAL IN FAVOR OF MOVANT.

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the objection will be deemed unopposed and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If you file a timely response, the court may schedule a hearing.

CERTIFICATE OF SERVICE: I hereby certify that on this date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sends notification of such filing to all those who in this case have registered for receipt of notice by electronic mail. I further certify that the foregoing has been served to U.S. Trustee at [ustpregion21.hr.ecf@usdoj.gov](mailto:ustpregion21.hr.ecf@usdoj.gov) and by depositing true and correct copies thereof in the United States Mail, postage prepaid, to the non ECF/CM participants: debtor(s), BANCO POPULAR DE PUERTO RICO MORTGAGE SERVICE DEPT 761 PO BOX 362708 SAN JUAN PR 00936 and parties in interest that have filed notices of appearance, included in the service list attached to the original hereof.

**RESPECTFULLY SUBMITTED** at San Juan, Puerto Rico, this 8/26/2013.

ALEJANDRO OLIVERAS RIVERA

**ALEJANDRO OLIVERAS RIVERA**

**Chapter 13 Trustee**

**PO Box 9024062, San Juan, PR 00902-4062**

**Phone 787-977-3500 Fax 787-977-3521**

- JV

Department of Defense Manpower Data Center

Results as of : Aug-26-2013 05:01:17

SCRA 3.0



## Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: MEDERO VIDAL

First Name: PEDRO

Middle Name:

Active Duty Status As Of: Aug-26-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

### More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

### Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: S4KFN03410B6500

Department of Defense Manpower Data Center

Results as of : Aug-26-2013 05:01:19

SCRA 3.0



**Status Report  
Pursuant to Servicemembers Civil Relief Act**

Last Name: GUTIERREZ JIMENEZ

First Name: MARIA

Middle Name:

Active Duty Status As Of: Aug-26-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
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*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350

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Certificate ID: E48FT074Q0B6D10

13-03839-ESL

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail or electronically sent to the parties listed below:

BANCO POPULAR DE PUERTO RICO  
MORTGAGE SERVICE DEPT 761  
PO BOX 362708  
SAN JUAN, PR 00936 -2708

BANCO POPULAR DE P.R. MORTGAGE DIV.  
C/O CARDONA-JIMENEZ LAW OFFICES  
PO BOX 9023593  
SAN JUAN, PR 00902 -3593

PEDRO MEDERO VIDAL and MARIA VIRGEN GUTIERREZ JIMENEZ  
CHALETs DE BAIROA  
128 GORRION STREET  
CAGUAS, PR 00725

R FIGUEROA CARRASQUILLO LAW OFFICE PSC\*  
PO BOX 193677  
SAN JUAN, PR 00919-3677

DATED: 8/26/2013

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/s/Walter Lugo

OFFICE OF THE CHAPTER 13 TRUSTEE